

ORIGINAL

OPEN MEETING

MEMORANDUM



Arizona Corporation Commission

RECEIVED

TO: THE COMMISSION

FROM: Utilities Division

DATE: June 1, 2012

RE: ARIZONA – AMERICAN WATER COMPANY'S APPLICATION FOR APPROVAL OF A TARIFF AT VARIANCE WITH ARIZONA ADMINISTRATIVE CODE R14-2-410.A.2 (DOCKET NO. W-01303A-12-0063)

On February 24, 2012, Arizona-American Water Company¹ ("Company") filed an application for approval of a tariff that grants a variance from Arizona Administrative Code R14-2-410.A.2, thereby permitting the Company to enter into an agreement with the City of Peoria ("the City"). This rule prohibits utilities from disconnecting service to customers for failure to pay for services not regulated by the Arizona Corporation Commission ("Commission").

The Company provides water service to portions of the City, but does not provide wastewater service in the City. The City provides the wastewater service; therefore, wastewater service is not regulated by the Commission.

Due to the bifurcated nature of water and wastewater utility services within the City, it has become increasingly difficult for the City to collect delinquent wastewater bills without a corresponding ability to disconnect water service where such water service is provided by the Company. Thus, the City has requested that the Company file this variance request in order to assist in the collection of delinquent wastewater bills when requested to do so by the City by terminating water utility service to delinquent City wastewater customers.

The City will only request that Arizona-American disconnect water utility service to a customer when the customer's sewer utility account remains unpaid and becomes delinquent subject to the City's termination of service procedures. Once an account is determined to be delinquent, the City will notify the customer in writing by posting notice at the customer's premises in the form attached hereto in Exhibit B. This notice will allow the customer 10 business days to make payment or payment arrangements for the delinquent balance with the City in order to prevent water utility service from being disconnected.

The City will conduct its own billing and collection process for payment of sewer utility service charges. The Company will defer any customer inquiries resulting from this tariff to the City for handling.

The City will make Arizona-American whole by payment of a Monthly Lost Revenue fee for each customer whose service is terminated under this Agreement. The fee is based on the average revenue received from a customer using a 5/8 inch to 1 inch meter and is intended to

¹ On February 1, 2012, Arizona-American Water Company was acquired by EPCOR Water (USA). The acquisitions were approved by Commission Decision No. 72668 (November 17, 2011). Both Arizona-American Water Company and EPCOR Water (USA) will be referred to as "Company".

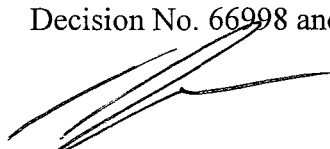
THE COMMISSION

June 1, 2012

Page 2

compensate Arizona-American for the loss of revenue that the Company would have received from the customer, if water utility service had not been disconnected.

Staff recommends that the Commission approve the Agreement for Water Service Termination and Sharing Information Regarding Water Consumption and the tariff. This tariff is similar to one approved by the Commission for the Company's Bullhead City water system in Decision No. 66998 and its City of Surprise water system in Decision No. 68917.



Steven M. Olea
Director
Utilities Division

SMO:GO:lhmr\RM

ORIGINATOR: Guadalupe Ortiz

EXHIBIT A (REVISED)

FEE SCHEDULE

WITH THE CITY OF PEORIA

Disconnect Fee (Turn-off and Turn-on service included)	\$80.00
Disconnect Cancellation Fee (When City cancels a termination request after noon (12 p.m.) on the date service is scheduled to be shut off)	\$80.00
Monthly Lost Revenue Fee (based on Sun City District rates effective January 1, 2011, using average revenue from 5/8" to 1" metered residential customers including an applied combined state and federal tax rate of 39%)	\$23.76

Arizona American Water Company
(Name of Company)

ORIGINAL SHEET NO. 10

Sun City Water District
(Name of Service Area)

WATER SERVICES TERMINATION AGREEMENT
WITH THE CITY OF PEORIA

Arizona-American Water Company ("Arizona-American" or "Company") has been granted a variance from Arizona Corporation Commission Rule A.A.C. R14-2-410.A.2 for the limited purpose of entering into a Water Services Termination Agreement ("Agreement") with the City of Peoria, a municipal provider of wastewater service, for common customers purchasing water from Arizona-American and wastewater from the City. The purpose of this Tariff, and the authorized variance from A.A.C. R14-2-410.A.2, is to assist the City in collecting delinquent payments for wastewater utility service provided to common customers of Arizona-American.

As per the Agreement, the Company is authorized to charge the City of Peoria the following fees:

Fee Schedule:

Disconnect Fee \$80.00
(Turn-off and Turn-on service included)

Disconnect Cancellation Fee \$80.00

Monthly Lost Revenue Fee \$23.76
(Based on Sun City District rates effective January 1, 2011 using average revenue from 5/8" to 1" metered residential customers including an applied combined state and federal tax rate of 39%)

Terms and Conditions

Arizona-American shall comply with the terms and conditions of the Agreement. The Agreement with the City is attached to and incorporated into this tariff.

ISSUED: MM DD YYYY
Month Day Year

EFFECTIVE: MM DD YYYY
Month Day Year

ISSUED BY: Tom Broderick, Director, Rates
2355 W. Pinnacle Peak Rd., Phoenix, AZ 85027

Decision No. XXXXX

**AGREEMENT FOR WATER SERVICE TERMINATION AND SHARING OF
INFORMATION REGARDING WATER CONSUMPTION**

This AGREEMENT FOR WATER SERVICE TERMINATION AND SHARING OF INFORMATION REGARDING WATER CONSUMPTION (this "Agreement") is made and entered into as of the 20th day of September, 2011, by and between ARIZONA-AMERICAN WATER COMPANY, an Arizona corporation ("Arizona American"), and THE CITY OF PEORIA, an Arizona municipal corporation duly organized and existing under the laws of the state of Arizona (the "City") Arizona American and the City are sometimes referred to collectively as the "Parties" in this Agreement.

RECITALS:

A. Arizona American provides water utility service to certain residents of the City (collectively, the "Arizona American Water Customers") under a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission ("Commission"), and the City provides sewer utility service to certain residents within its borders, some of whom are also Arizona American Water Customers.

B. For purposes of this Agreement, an Arizona American Water Customer who is also a customer of the City of sewer utility service is referred to as a "Shared Customer."

C. The City has requested Arizona American to assist in the City's collection of delinquent sewerage bills or charges when requested to do so, by terminating water utility service to Shared Customers who are then delinquent in the payment of the City's sewer utility bills.

D. The City has requested that Arizona American provide information to the City regarding water consumption by the Arizona American Water Customers in order to assist the City in billing for sewer utility service to those customers.

E. Arizona American and the City desire to enter into this Agreement specifically setting forth the respective duties, obligations, responsibilities, and liabilities of the Parties and recognizing that the effectiveness of this Agreement is subject to Commission approval.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, Arizona American and the City, each intending to be legally bound by this Agreement, hereby agree as follows:

1. Water Service Termination.

1.1 The City, by written notice to Arizona American (a "Termination Request"), may request that Arizona American terminate water service to a Shared Customer who is then liable to the City for overdue sewer charges ("Delinquent Shared Customer"). Each Termination Request will constitute the City's representation and warranty to Arizona American that the applicable Shared Customer is then a Delinquent Shared Customer and has been provided the notice contemplated in subparagraph 1.2.A, below. Upon Arizona American's receipt of a

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Termination Request, Arizona American will promptly commence its service termination process with respect to that Shared Customer in compliance with the terms of this Agreement and in compliance with any requirements imposed upon Arizona American by the Commission. The City will perform its own collection process for overdue sewer utility service charges, and will not request termination of water utility service by Arizona American unless and until the City could have terminated water service to that Shared Customer if that Shared Customer was a water service customer of the City. Termination Requests from the City will be processed by Arizona American each week, and the City may cancel any Termination Request without charge by providing written notice to that effect to Arizona American prior to noon on the date Arizona American's water utility service is scheduled to be shut off. For each request made after that time, the City will be charged a Disconnect Cancellation Fee (as defined in Exhibit A).

1.2 In order for Arizona American to shut off water service to a Delinquent Shared Customer, the City will:

- A. notify the applicable Delinquent Shared Customer, in writing and by posting notice in the form set for in Exhibit B at the premise where the applicable Delinquent Shared Customer receives water service from Arizona American and sewer utility service from the City (the "Shut-off Premises"), that water service by Arizona American will be terminated ten (10) days after the date of the delinquent notice as a result of that Delinquent Shared Customer's delinquent sewer bill with the City; and
- B. notify Arizona American by Termination Request, which shall be delivered by e-mail, to terminate the water service of Shared Customer in accordance with procedures in paragraph 1.3.

1.3 The City will pay a Disconnect Fee in accordance with Exhibit A for each Termination Request delivered to Arizona American, which Disconnect Fee will be consideration for Arizona American taking the necessary steps to terminate its water utility service to the applicable Shared Customer, unless the City withdraws its Termination Request prior to actual disconnection in accordance with paragraph 1.1, above. Upon Arizona American's receipt of a Termination Notice, Arizona American shall:

- A. shut off the water source to the Shut-off Premises in accordance with Arizona American's customer shut-off procedures;
- B. notify the City by e-mail of the date water service was shut off to the Shut-off Premises;
- C. keep a separate record detailing all of the Termination Requests under this Agreement; and
- D. resume water utility service to the Shut-off Premises in accordance with Arizona American's turn-on procedures after being notified by the City, in writing delivered by e-mail, that the delinquent sewer bill has been paid or that payment arrangements have been made, and upon the Shared Customer paying all charges then due to Arizona American resulting from the shutoff.

The City expressly acknowledges and agrees that Arizona American shall have no other obligations or responsibilities under this Agreement with respect to the shut off of water utility service to Delinquent Shared Customers other than those expressly set forth above in this paragraph 1.3.

1.4 In addition to payment of the applicable Disconnect Fees, the City will pay Arizona American a Monthly Lost Revenue Fee in accordance with Exhibit A for each Delinquent Shared Customer whose water utility service is terminated under this Agreement for all or a portion of the applicable month. The Monthly Lost Revenue Fee is intended to compensate Arizona American for the loss of revenue that Arizona American would have received from that Delinquent Shared Customer if the water utility service had not been terminated. Arizona American may, from time to time by written notice to the City, revise the Monthly Lost Revenue Fee as appropriate to reflect any changes in Arizona American's water rates approved by the Commission. The Monthly Lost Revenue Fee shall be prorated for any period less than 30 days. Arizona American will invoice the City for all Monthly Lost Revenue Fees under this Agreement on a monthly basis, and the City shall process invoices and pay Arizona American promptly in accordance with the City's customary business practices without unreasonable delay. The City will not pay interest on unpaid invoices.

2. Sharing of Information Regarding Water Consumption.

2.1 Arizona American will provide the City an account to access Arizona American's ON-Line Account Manager Database ("OAM") in order for the City to get water consumption information for the Shared Customers (the "Consumption Information") for the City's use in billing the Shared Customers for sewer utility services. The City shall provide Arizona American with a map of the City's sewer utility service area located within Arizona American's water service area. The City acknowledges and agrees that it is authorized to use the Consumption Information only for purposes of its own sewer utility services billing, and that the City is not authorized to use any of the Consumption Information for any other purpose or to disclose any of the Consumption Information to any other party except as may be required by law or the order of a court of competent jurisdiction.

2.2 The City will pay Arizona American an annual administrative fee of \$0.50 per Shared Customer for the City's access to the OAM and the associated Consumption Information provided by the OAM under this Agreement. Arizona American will bill the City annually for this administrative fee.

3. Regulatory Matters.

3.1 City understands, acknowledges and agrees that:

- A. Arizona American is an Arizona public service corporation (as such term is defined in the Arizona Constitution) and, as such, is subject to the applicable Commission rules, regulations, and orders, including, but not limited to, A.A.C. R14-2-410.A.2 and Commission Decision No. 65453 (Dec. 12, 2002) (the "Decision");

- B. pursuant to A.A.C. R14-2-410.A.2, Arizona American is precluded from disconnecting its water utility service as the result of the failure of the customer to pay for services or equipment which are not regulated by the Commission;
- C. the City's sewer utility services is not regulated by the Commission, therefore requiring Arizona American to obtain from the Commission a variance from the restrictions under A.A.C. R14-2-410.A.2 in order to proceed as contemplated in this Agreement;
- D. pursuant to the Decision, Arizona American is required to submit notice to the Commission at least 180 days in advance of any sharing of customer information, including billing information and to file a tariff with the Commission setting forth appropriate customer notification procedures to inform customers of the information sharing arrangements;
- E. Arizona American will account for the applicable and reasonable costs incurred for the required notice and tariff and within 30 days after the required notice is provided and within 30 days after the Commission's tariff proceeding is concluded, Arizona American will bill the City for the total costs incurred by Arizona American for the required notice or tariff, as the case may be, and the City shall process invoices and pay Arizona American promptly in accordance with the City's customary business practices without unreasonable delay. The City will not pay interest on unpaid invoices; and
- F. upon Arizona American's submission of such notice and filing of such tariff, the Commission may stay effectiveness of any such tariff until such time, if ever, as the Commission issues a written order approving any agreement by Arizona American to share customer information.

3.2 Promptly upon the execution of this Agreement by the Parties, Arizona American will (i) request from the Commission a variance under A.A.C. R14-2-410.A.2 to allow Arizona American to fulfill its customer shut off obligations under this Agreement, and (ii) submit notice to the Commission and request from the Commission a tariff to allow Arizona American to fulfill its obligations under this Agreement to deliver to the Consumption Information to the City. The City will reasonably cooperate and assist Arizona American, at no cost to Arizona American, in connection with obtaining the approvals of the Commission enabling Arizona American to fulfill its obligations under this Agreement.

3.3 Based upon the foregoing, the City agrees that Arizona American will have no obligations under this Agreement to deliver any of the Consumption Information or to shut off water utility service to any Delinquent Shared Customer unless and until the Commission grants the requested variance or tariff, as the case may be, contemplated under paragraphs 3.1 and 3.2, above. The provisions of this paragraph 3.3 supersede any other provision of this Agreement.

4. Miscellaneous Provisions.

4.1 City will indemnify, defend, and hold Arizona American harmless from and against all claims, losses, liability, costs, or expenses, including reasonable attorney's fees,

(collectively, "claims") arising out of the termination of water utility service to Delinquent Shared Customers or City's use of the Consumption Information provided to City by Arizona American under this Agreement, except to the extent any claims arise out of the negligence of Arizona American, its employees or representatives.

4.2 Notwithstanding anything in this Agreement to the contrary, Arizona American will have no obligation under this Agreement to shut off water utility service to any multi unit structure sharing a common service line.

4.3 This Agreement will remain in effect indefinitely (subject always to the provisions of paragraph 3.3, above); provided, however, that either party may terminate this Agreement at any time and for any or no reason upon sixty days' prior written notice to the other Party.

4.4 Neither the City nor Arizona American will be liable for any loss or damage due to failure or delay in rendering any service or performing any obligation required under this Agreement resulting from any cause beyond their reasonable control including, but not limited to: acts of God; acts or omissions of civil or military authority; acts or omissions of contractors or suppliers; fires; floods; epidemics; quarantine restrictions; severe weather; strikes; embargoes; wars; political strife; riots; delays in transportation; or fuel, power, materials or labor shortages. In addition, Arizona American will in no event be liable to the City for any lost sewer utility service revenue claimed by the City as the result of Arizona American's failure to shut off water utility service to any Delinquent Shared Customer or as the result of any delay in Arizona American's shutting off such water utility service.

4.5 The failure of either Party to enforce the provisions of this Agreement at any time will not constitute a waiver of such provisions in any way and will not limit the right of the City or Arizona American to avail themselves of such remedies as either may have for any breach or breaches of such provisions. The waiver of any specific provisions or requirements of this Agreement will not constitute a waiver of any other provision or requirement. Any waiver of any specific provision or requirement of this Agreement will be written and signed by the Party to be bound by such waiver.

4.6 This Agreement contains the entire agreement between Arizona American and the City with respect to its subject matter. This Agreement supersedes all previous written and verbal agreements regarding such subject matter. Any amendment, revision, modification, termination or rescission of this Agreement, to be effective, must be in writing and signed by both Parties.

4.7 This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

4.8 Any provision of this Agreement that is determined to be prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

4.9 This Agreement may be executed to one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

4.10 This Agreement will be construed and enforced in accordance with then laws of the State of Arizona, without giving effect to its conflicts of laws provisions.

4.11 Any notice, written request, or communication given pursuant to the provisions of this Agreement will be deemed to be delivered on the date of mailing if mailed by certified or overnight mail addressed as follows:

If to the City: City of Peoria
Attn: Finance Manager
8401 W. Monroe St.
Peoria, AZ 85345

If to Arizona American: Arizona-American Water Company
Attn: Manager, Customer Service
15626 N. Del Webb Boulevard.
Sun City, AZ 85351

or to such other addresses as the affected Party may, from time to time, specify by notice in writing in accordance with the terms of this paragraph.

4.12 This Agreement is subject to the provisions of A.R.S. §38-511.

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties as of the date first written above.

THE CITY OF PEORIA

ARIZONA-AMERICAN WATER COMPANY

By: Carl Swenson
Carl Swenson, City Manager

By: Ian C. Crooks
Ian C. Crooks, Director

ATTEST:

ATTEST:

Wanda Nelson
City Clerk



Sharon Braddock
Administrative Assistant

APPROVED AS TO FORM:

Stephen M. Kemp
Stephen M. Kemp, City Attorney

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 GARY PIERCE
 Chairman

3 BOB STUMP
 Commissioner

4 SANDRA D. KENNEDY
 Commissioner

5 PAUL NEWMAN
 Commissioner

6 BRENDA BURNS
 Commissioner

7
8 IN THE MATTER OF THE APPLICATION)
9 OF ARIZONA-AMERICAN WATER)
10 COMPANY FOR APPROVAL OF A TARIFF)
 AT VARIANCE WITH A.A.C. R14-2-
 410.A.2)

DOCKET NO. W-01303A-12-0063

DECISION NO. _____

ORDER

11
12 Open Meeting
13 June 19 and 20, 2012
 Phoenix, Arizona

14 BY THE COMMISSION:

15 FINDINGS OF FACT

16 1. Arizona-American Water Company¹ (the "Company") is certificated to provide
17 water service as a public service corporation in the State of Arizona. Arizona-American provides
18 water utility service to residents within the State of Arizona pursuant to multiple Certificates of
19 Convenience and Necessity issued by the Arizona Corporation Commission ("Commission").

20 2. On February 24, 2012, the Company filed an application for a tariff that grants the
21 Company a variance from Arizona Administrative Code R14-2-410.A.2 thereby permitting the
22 Company to enter into an agreement with the City of Peoria ("the City"). This rule prohibits
23 utilities from disconnecting service to customers for failure to pay for services not regulated by the
24 Commission.

25 ...

26
27 _____
28 ¹ On February 1, 2012, Arizona-American Water Company was acquired by EPCOR Water (USA). The acquisitions
was approved by Commission Decision No. 72668 (November 17, 2011) Both Arizona-American Water Company
and EPCOR Water (USA) will be referred to as "Company")

1 3. Arizona-American provides water service to portions of the City, but does not
2 provide wastewater service in the City. The City provides the wastewater service, therefore,
3 wastewater service is not regulated by the Commission.

4 4. Due to the bifurcated nature of water and wastewater utility services within the
5 City, it has become increasingly difficult for the City to collect delinquent wastewater bills without
6 a corresponding ability to disconnect water service, where such water service is provided by the
7 Company. In order to aid with the collection of delinquent wastewater utility bills, the City has
8 requested that the Company file this variance request with the Commission.

9 5. The City will only request that Arizona-American disconnect water utility service
10 to a customer when the customer's sewer utility account remains unpaid and becomes delinquent
11 subject to the City's termination of service procedures. Once an account is determined to be
12 delinquent, the City will notify the customer in writing by posting notice at the customer's
13 premises in the form attached hereto in Exhibit B. This notice will allow the customer 10 business
14 days to make payment or payment arrangements for the delinquent balance with the City in order
15 to prevent water utility service from being disconnected.

16 6. The City will conduct its own billing and collection process for payment of sewer
17 utility service charges. The Company will defer any customer inquiries resulting from this tariff to
18 the City for handling.

19 7. The City will make the Company whole by payment of a Monthly Lost Revenue fee
20 for each customer whose service is terminated under this Agreement. The fee is based on the
21 average revenue received from a customer using a 5/8-inch to 1-inch meter and is intended to
22 compensate EPCOR for the loss of revenue that the Company would have received from the
23 customer, if water utility service had not been disconnected.

24 8. On September 20, 2011, the City and the Company entered into an Agreement for
25 Water Service Termination and Sharing of Customer Information regarding Water Consumption
26 ("Agreement"), subject to approval by the Commission, attached as Attachment A.

27 ...

28 ...

1 9. On April 13, 2012, Arizona-American filed an amended Fee Schedule and tariff to
2 include a Disconnect Cancellation fee in the amount of \$80.00 that the Company failed to include
3 in its original filing.

4 10. On May 1, 2012, the Company filed an Amended Fee Schedule to include the name
5 "The City of Peoria" in the heading.

6 11. Staff recommends approval of the Agreement for Water Service Termination and
7 Sharing Information Regarding Water Consumption with the amended Fee Schedule and Tariff at
8 variance with A.A.C. R14-2-410.A.2 attached hereto.

9 12. Staff further recommends that:

10 A. the Company file an amended Agreement and tariff with Docket Control as a
11 compliance matter in this case within 30 days of a Commission Decision.

12 B. the Company provide notice to its customers as soon as possible by means of a
13 bill insert in its regular scheduled billing in a format acceptable to Staff. The
14 Company shall file a copy of the notice with Docket Control as a compliance
matter in this case within 30 days of providing notice to its customers.

15 13. Staff further recommends that this tariff not become effective until the first day of
16 the month after the Company provides notice to all its customers that are provided wastewater
17 service by the City.

18 CONCLUSIONS OF LAW

19 1. The Company provides water utility service to residents within the State of Arizona
20 pursuant to multiple certificates of convenience and necessity issued by the Arizona Corporation
21 Commission.

22 2. The Commission has jurisdiction over the Company, and the subject matter in this
23 application.

24 3. The Commission, having reviewed the filing and Staff's Memorandum dated
25 June 1, 2012, finds that it is in the public interest to approve the Agreement for Water Service
26 Termination and Sharing of Customer Information regarding Water Consumption with the
27 amended Fee Schedule and tariff as discussed herein.

28 ...

ORDER

IT IS THEREFORE ORDERED that EPCOR Water (USA)'s Water Service Termination and Sharing Information Regarding Water Conservation Tariff, along with the Revised Fee Schedule, is hereby approved as discussed herein.

IT IS FURTHER ORDERED that within thirty (30) days of this decision, EPCOR Water (USA) shall file with Docket Control tariff sheets in compliance with this decision.

IT IS FURTHER ORDERED that EPCOR Water (USA) shall notice its customers who are provided wastewater service by the City of Peoria of the tariff filing and approval as soon as possible in a form and manner acceptable to Utilities Division Staff.

IT IS FURTHER ORDERED that EPCOR Water (USA) shall provide notice of this tariff upon establishment of service to any new customers that will be provided wastewater service by the City of Peoria.

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1 IT IS FURTHER ORDERED that this tariff shall become effective on the first day of the
2 month after all EPCOR Water (USA) customers who are provided wastewater services by the City
3 of Peoria have been notified.

4 IT IS FURTHER ORDERED that this decision shall become effective immediately.

5 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

6
7 _____
CHAIRMAN

COMMISSIONER

8
9
10 _____
COMMISSIONER

COMMISSIONER

COMMISSIONER

11
12 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
13 Executive Director of the Arizona Corporation Commission,
14 have hereunto, set my hand and caused the official seal of this
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this _____ day of _____, 2012.

17 _____
ERNEST G. JOHNSON
18 EXECUTIVE DIRECTOR

19 DISSENT: _____

20
21 DISSENT: _____

22 SMO:GO:lh\RM
23
24
25
26
27
28

1 SERVICE LIST FOR: Arizona-American Water Company
2 DOCKET NO. W-01303A-12-0063

3 Mr. Michael T. Hallam
4 Lewis & Roca LLP
40 North Central Avenue
5 Phoenix, Arizona 85004

6 Ms. Sandra L. Murrey
7 EPCOR Water Arizona, Inc.
2355 West Pinnacle Peak Road, Suite 300
8 Phoenix, Arizona 85027

9 City of Peoria
Attn: Finance Manager
10 8401 West Monroe Street
11 Peoria, Arizona 85345

12 Mr. Steven M. Olea
Director, Utilities Division
13 Arizona Corporation Commission
1200 West Washington Street
14 Phoenix, Arizona 85007

15 Ms. Janice M. Alward
16 Chief Counsel, Legal Division
Arizona Corporation Commission
17 1200 West Washington Street
18 Phoenix, Arizona 85007

EXHIBIT A (REVISED)

FEE SCHEDULE

WITH THE CITY OF PEORIA

Disconnect Fee (Turn-off and Turn-on service included)	\$80.00
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Disconnect Cancellation Fee (When City cancels a termination request after noon (12 p.m.) on the date service is scheduled to be shut off)	\$80.00
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ORIGINAL SHEET NO. 10

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(Name of Company)

Sun City Water District
(Name of Service Area)

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WITH THE CITY OF PEORIA

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As per the Agreement, the Company is authorized to charge the City of Peoria the following fees:

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(Turn-off and Turn-on service included)

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(Based on Sun City District rates effective January 1, 2011 using
average revenue from 5/8" to 1" metered residential customers
including an applied combined state and federal tax rate of 39%)

Terms and Conditions

Arizona-American shall comply with the terms and conditions of the Agreement.
The Agreement with the City is attached to and incorporated into this tariff.

ISSUED: MM DD YYYY
Month Day Year

EFFECTIVE: MM DD YYYY
Month Day Year

ISSUED BY: Tom Broderick, Director, Rates
2355 W. Pinnacle Peak Rd., Phoenix, AZ 85027

Decision No. XXXXX

Decision No. _____

**AGREEMENT FOR WATER SERVICE TERMINATION AND SHARING OF
INFORMATION REGARDING WATER CONSUMPTION**

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RECITALS:

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B. For purposes of this Agreement, an Arizona American Water Customer who is also a customer of the City of sewer utility service is referred to as a "Shared Customer."

C. The City has requested Arizona American to assist in the City's collection of delinquent sewerage bills or charges when requested to do so, by terminating water utility service to Shared Customers who are then delinquent in the payment of the City's sewer utility bills.

D. The City has requested that Arizona American provide information to the City regarding water consumption by the Arizona American Water Customers in order to assist the City in billing for sewer utility service to those customers.

E. Arizona American and the City desire to enter into this Agreement specifically setting forth the respective duties, obligations, responsibilities, and liabilities of the Parties and recognizing that the effectiveness of this Agreement is subject to Commission approval.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, Arizona American and the City, each intending to be legally bound by this Agreement, hereby agree as follows:

1. Water Service Termination.

1.1 The City, by written notice to Arizona American (a "Termination Request"), may request that Arizona American terminate water service to a Shared Customer who is then liable to the City for overdue sewer charges ("Delinquent Shared Customer"). Each Termination Request will constitute the City's representation and warranty to Arizona American that the applicable Shared Customer is then a Delinquent Shared Customer and has been provided the notice contemplated in subparagraph 1.2.A, below. Upon Arizona American's receipt of a

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Termination Request, Arizona American will promptly commence its service termination process with respect to that Shared Customer in compliance with the terms of this Agreement and in compliance with any requirements imposed upon Arizona American by the Commission. The City will perform its own collection process for overdue sewer utility service charges, and will not request termination of water utility service by Arizona American unless and until the City could have terminated water service to that Shared Customer if that Shared Customer was a water service customer of the City. Termination Requests from the City will be processed by Arizona American each week, and the City may cancel any Termination Request without charge by providing written notice to that effect to Arizona American prior to noon on the date Arizona American's water utility service is scheduled to be shut off. For each request made after that time, the City will be charged a Disconnect Cancellation Fee (as defined in Exhibit A).

1.2 In order for Arizona American to shut off water service to a Delinquent Shared Customer, the City will:

- A. notify the applicable Delinquent Shared Customer, in writing and by posting notice in the form set for in Exhibit B at the premise where the applicable Delinquent Shared Customer receives water service from Arizona American and sewer utility service from the City (the "Shut-off Premises"), that water service by Arizona American will be terminated ten (10) days after the date of the delinquent notice as a result of that Delinquent Shared Customer's delinquent sewer bill with the City; and
- B. notify Arizona American by Termination Request, which shall be delivered by e-mail, to terminate the water service of Shared Customer in accordance with procedures in paragraph 1.3.

1.3 The City will pay a Disconnect Fee in accordance with Exhibit A for each Termination Request delivered to Arizona American, which Disconnect Fee will be consideration for Arizona American taking the necessary steps to terminate its water utility service to the applicable Shared Customer, unless the City withdraws its Termination Request prior to actual disconnection in accordance with paragraph 1.1, above. Upon Arizona American's receipt of a Termination Notice, Arizona American shall:

- A. shut off the water source to the Shut-off Premises in accordance with Arizona American's customer shut-off procedures;
- B. notify the City by e-mail of the date water service was shut off to the Shut-off Premises;
- C. keep a separate record detailing all of the Termination Requests under this Agreement; and
- D. resume water utility service to the Shut-off Premises in accordance with Arizona American's turn-on procedures after being notified by the City, in writing delivered by e-mail, that the delinquent sewer bill has been paid or that payment arrangements have been made, and upon the Shared Customer paying all charges then due to Arizona American resulting from the shutoff.

The City expressly acknowledges and agrees that Arizona American shall have no other obligations or responsibilities under this Agreement with respect to the shut off of water utility service to Delinquent Shared Customers other than those expressly set forth above in this paragraph 1.3.

1.4 In addition to payment of the applicable Disconnect Fees, the City will pay Arizona American a Monthly Lost Revenue Fee in accordance with Exhibit A for each Delinquent Shared Customer whose water utility service is terminated under this Agreement for all or a portion of the applicable month. The Monthly Lost Revenue Fee is intended to compensate Arizona American for the loss of revenue that Arizona American would have received from that Delinquent Shared Customer if the water utility service had not been terminated. Arizona American may, from time to time by written notice to the City, revise the Monthly Lost Revenue Fee as appropriate to reflect any changes in Arizona American's water rates approved by the Commission. The Monthly Lost Revenue Fee shall be prorated for any period less than 30 days. Arizona American will invoice the City for all Monthly Lost Revenue Fees under this Agreement on a monthly basis, and the City shall process invoices and pay Arizona American promptly in accordance with the City's customary business practices without unreasonable delay. The City will not pay interest on unpaid invoices.

2. Sharing of Information Regarding Water Consumption.

2.1 Arizona American will provide the City an account to access Arizona American's ON-Line Account Manager Database ("OAM") in order for the City to get water consumption information for the Shared Customers (the "Consumption Information") for the City's use in billing the Shared Customers for sewer utility services. The City shall provide Arizona American with a map of the City's sewer utility service area located within Arizona American's water service area. The City acknowledges and agrees that it is authorized to use the Consumption Information only for purposes of its own sewer utility services billing, and that the City is not authorized to use any of the Consumption Information for any other purpose or to disclose any of the Consumption Information to any other party except as may be required by law or the order of a court of competent jurisdiction.

2.2 The City will pay Arizona American an annual administrative fee of \$0.50 per Shared Customer for the City's access to the OAM and the associated Consumption Information provided by the OAM under this Agreement. Arizona American will bill the City annually for this administrative fee.

3. Regulatory Matters.

3.1 City understands, acknowledges and agrees that:

- A. Arizona American is an Arizona public service corporation (as such term is defined in the Arizona Constitution) and, as such, is subject to the applicable Commission rules, regulations, and orders, including, but not limited to, A.A.C. R14-2-410.A.2 and Commission Decision No. 65453 (Dec. 12, 2002) (the "Decision");

- B. pursuant to A.A.C. R14-2-410.A.2, Arizona American is precluded from disconnecting its water utility service as the result of the failure of the customer to pay for services or equipment which are not regulated by the Commission;
- C. the City's sewer utility services is not regulated by the Commission, therefore requiring Arizona American to obtain from the Commission a variance from the restrictions under A.A.C. R14-2-410.A.2 in order to proceed as contemplated in this Agreement;
- D. pursuant to the Decision, Arizona American is required to submit notice to the Commission at least 180 days in advance of any sharing of customer information, including billing information and to file a tariff with the Commission setting forth appropriate customer notification procedures to inform customers of the information sharing arrangements;
- E. Arizona American will account for the applicable and reasonable costs incurred for the required notice and tariff and within 30 days after the required notice is provided and within 30 days after the Commission's tariff proceeding is concluded, Arizona American will bill the City for the total costs incurred by Arizona American for the required notice or tariff, as the case may be, and the City shall process invoices and pay Arizona American promptly in accordance with the City's customary business practices without unreasonable delay. The City will not pay interest on unpaid invoices; and
- F. upon Arizona American's submission of such notice and filing of such tariff, the Commission may stay effectiveness of any such tariff until such time, if ever, as the Commission issues a written order approving any agreement by Arizona American to share customer information.

3.2 Promptly upon the execution of this Agreement by the Parties, Arizona American will (i) request from the Commission a variance under A.A.C. R14-2-410.A.2 to allow Arizona American to fulfill its customer shut off obligations under this Agreement, and (ii) submit notice to the Commission and request from the Commission a tariff to allow Arizona American to fulfill its obligations under this Agreement to deliver to the Consumption Information to the City. The City will reasonably cooperate and assist Arizona American, at no cost to Arizona American, in connection with obtaining the approvals of the Commission enabling Arizona American to fulfill its obligations under this Agreement.

3.3 Based upon the foregoing, the City agrees that Arizona American will have no obligations under this Agreement to deliver any of the Consumption Information or to shut off water utility service to any Delinquent Shared Customer unless and until the Commission grants the requested variance or tariff, as the case may be, contemplated under paragraphs 3.1 and 3.2, above. The provisions of this paragraph 3.3 supersede any other provision of this Agreement.

4. Miscellaneous Provisions.

4.1 City will indemnify, defend, and hold Arizona American harmless from and against all claims, losses, liability, costs, or expenses, including reasonable attorney's fees,

(collectively, "claims") arising out of the termination of water utility service to Delinquent Shared Customers or City's use of the Consumption Information provided to City by Arizona American under this Agreement, except to the extent any claims arise out of the negligence of Arizona American, its employees or representatives.

4.2 Notwithstanding anything in this Agreement to the contrary, Arizona American will have no obligation under this Agreement to shut off water utility service to any multi unit structure sharing a common service line.

4.3 This Agreement will remain in effect indefinitely (subject always to the provisions of paragraph 3.3, above); provided, however, that either party may terminate this Agreement at any time and for any or no reason upon sixty days' prior written notice to the other Party. *

4.4 Neither the City nor Arizona American will be liable for any loss or damage due to failure or delay in rendering any service or performing any obligation required under this Agreement resulting from any cause beyond their reasonable control including, but not limited to: acts of God; acts or omissions of civil or military authority; acts or omissions of contractors or suppliers; fires; floods; epidemics; quarantine restrictions; severe weather; strikes; embargoes; wars; political strife; riots; delays in transportation; or fuel, power, materials or labor shortages. In addition, Arizona American will in no event be liable to the City for any lost sewer utility service revenue claimed by the City as the result of Arizona American's failure to shut off water utility service to any Delinquent Shared Customer or as the result of any delay in Arizona American's shutting off such water utility service.

4.5 The failure of either Party to enforce the provisions of this Agreement at any time will not constitute a waiver of such provisions in any way and will not limit the right of the City or Arizona American to avail themselves of such remedies as either may have for any breach or breaches of such provisions. The waiver of any specific provisions or requirements of this Agreement will not constitute a waiver of any other provision or requirement. Any waiver of any specific provision or requirement of this Agreement will be written and signed by the Party to be bound by such waiver.

4.6 This Agreement contains the entire agreement between Arizona American and the City with respect to its subject matter. This Agreement supersedes all previous written and verbal agreements regarding such subject matter. Any amendment, revision, modification, termination or rescission of this Agreement, to be effective, must be in writing and signed by both Parties.

4.7 This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

4.8 Any provision of this Agreement that is determined to be prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

4.9 This Agreement may be executed to one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

4.10 This Agreement will be construed and enforced in accordance with then laws of the State of Arizona, without giving effect to its conflicts of laws provisions.

4.11 Any notice, written request, or communication given pursuant to the provisions of this Agreement will be deemed to be delivered on the date of mailing if mailed by certified or overnight mail addressed as follows:

If to the City: City of Peoria
Attn: Finance Manager
8401 W. Monroe St.
Peoria, AZ 85345

If to Arizona American: Arizona-American Water Company
Attn: Manager, Customer Service
15626 N. Del Webb Boulevard.
Sun City, AZ 85351

or to such other addresses as the affected Party may, from time to time, specify by notice in writing in accordance with the terms of this paragraph.

4.12 This Agreement is subject to the provisions of A.R.S. §38-511.

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties as of the date first written above.

THE CITY OF PEORIA

ARIZONA-AMERICAN WATER COMPANY

By: Carl Swenson
Carl Swenson, City Manager

By: Ian C. Crooks
Ian C. Crooks, Director

ATTEST:

ATTEST:

Wanda Nelson
City Clerk

Sharon Bradford 12-01-11
Administrative Assistant

APPROVED AS TO FORM:

Stephen M. Kemp
Stephen M. Kemp, City Attorney

EXHIBIT B



Urgent
CITY OF PEORIA
Customer Service
8401 W. Monroe Street, 2nd Floor
Peoria, Arizona 85345
(623) 773-7160
Fax (623) 773-7159
customer.service@peoriaaz.gov

ADDRESS _____

ACCOUNT NO. _____

The City of Peoria provides the following service(s) to your home or business.

☐ Sewer and Solid Waste/Recycling

Water services for this address will be disconnected on: _____

Full account balance is due by deadline to avoid disconnect

**Contact Customer Service at:
623-773-7160 Monday– Thursday,
7:00a.m. to 6:00p.m.**



Urgent
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Decision No. _____